

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE CELEXA AND LEXAPRO) MDL DOCKET NO. 1736
PRODUCTS LIABILITY LITIGATION) ALL CASES

MEMORANDUM AND ORDER

This matter is before me on defendants' motion to dismiss some of the cases pending in this MDL action for lack of personal jurisdiction and motion to transfer venue under § 1404. Plaintiffs seek leave to conduct jurisdictional discovery before I decide whether to dismiss the cases for lack of personal jurisdiction. Because plaintiffs are entitled to conduct jurisdictional discovery before these issues are resolved, I will deny the motion to dismiss without prejudice to being re-filed once jurisdictional discovery is complete.

As for the motion to transfer, the United States Supreme Court has made it clear that I do not have the authority to transfer any of the cases at issue in this motion to other judicial districts under § 1404. Execon, Inc. v. Milberg Weiss, 523 U.S. 26, 28 (1998). "The reasoning on which the Execon Court relied in finding a lack of an MDL court's authority to self-transfer applies with equal force to motions to transfer venue to a 'third-party' court." In re PPA Products Liability Litigation, 2005 WL 1528946, *1 (W. D. Wash. June 24, 2005). "Other

federal courts have also found that [Lexecon] precludes an MDL court from acting under 28 U.S.C. § 1404(a) to rule on a motion to transfer.” Id. at *2. Because I cannot grant defendants any relief under § 1404, I will deny the motion to transfer.

Accordingly,

IT IS HEREBY ORDERED that defendants’ motion to dismiss [#297-1] is denied without prejudice to being re-filed once jurisdictional discovery has concluded.

IT IS FURTHER ORDERED that the motion to transfer [#297-2] is denied.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 25th day of April, 2008.